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Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by the Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2018]

* Issued as received, in the language(s) of submission only.

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Human Rights Now Expresses Grave Concern Over the Recent Escalation of Violence Between Occupied Palestine Territory and Israel

Human Rights Now, a Tokyo-based human rights NGO, expresses grave concern over the recent escalation of violence between Gaza, Occupied Palestinian Territory, and Israel, including the continuing killings of Palestinian civilians by Israel Defense Forces (IDF) in Gaza as well as the firing of multiple rockets towards communities in southern Israel by Hamas.

Israeli authorities must abide by their obligations under international human rights law and humanitarian law and should immediately end the excessive use of force against Palestinian protesters, hold authorities using excessive force accountable, offer redress to victims, and prevent future occurrences of excessive force.

Gaza political authorities must also end hostilities towards Israeli civilians and facilitate the long-lasting ceasefire deal brokered by the United Nations and Egypt.

1. More than 100 Palestinians killed along the Gaza-Israeli fence since March 2018, coinciding with the Great March of Return

On 30 March 2018, the decision to relocate the US Embassy in Israel to Jerusalem and the long-term blockade of Gaza resulted in Palestinians mass protesting, demanding the right of Palestinian refugees and their descendants to return to their homes in what is now Israel. Demonstrators were met with grossly disproportionate force by the IDF, resulting in over 100 Palestinians killed and 1000s more injured.1 On May 14, 10 of the 15 members of the UN Security Council sent a letter to the UN Secretary-General expressing concern that the embassy move violates a 2016 Security Council resolution, and the US blocked the adoption of a UN Security Council statement calling for an "independent and transparent investigation" into the violence.2

As of August 2018, hostilities continue, with Hamas firing dozens of rockets and mortar bombs into southern Israel.3

Israeli retaliatory airstrikes targeting Hamas locations in Gaza have caused numerous Palestinian civilian casualties, including a pregnant woman and her 18-month-old child on August 8.4

2. Disproportionate Use of Force by the IDF and Civilian Casualties during Israel Airstrikes

Prior to protests beginning, "Israeli officials said soldiers would be permitted under certain rules to fire live ammunition at anyone attempting to damage the border fence," including "against people coming within 300m (985ft) of it—a

1 UNSC Press Release, "Security Council Member Condemn Killing of Palestinian Civilians in Clashes at Israel-Gaza Border after Peaceful Protest Turned Violent", 30 March 2018, SC/13273. https://www.un.org/press/en/2018/sc13273.doc.htm

2 Michelle Nichols, "Two-thirds of U.N. Security Council upset by non-implementation of Mideast resolution", 15 May 2018, Reuters, https://www.reuters.com/article/us-israel-palestinians-un/two-thirds-of-u-n-security-council-upset-by-non-implementation-of-mideast-resolution-idUSKCN1IG05B; Chris Baynes, "US 'blocks UN motion' calling for investigation into Israeli killing of Gaza protesters", The Independent, 15 May 2018, https://www.independent.co.uk/news/world/middle-east/gaza-protests-latest-israel-palestine-trump-blocks-un-security-council-statement-investigation-a8352006.html.

3 United Nations Special Coordinator for the Middle East Peace Process, "Statement on the situation in Gaza", 9 August 2018. https://unsco.unmissions.org/sites/default/files/statement_by_un_special_coordinator_mladenov_-_9_august_2018.pdf

EU Spokesperson for Foreign Affairs and Security Policy/European Neighbourhood Policy and Enlargement Negotiations, "Statement on the latest escalation of violence between Gaza and Israel", 10 August 2018. https://eeas.europa.eu/headquarters/headquarters-homepage_en/49322/Statement%20on%20the%20latest%20escalation%20of%20violence%20between%20Gaza%20and%20Israel

4 Aljazeera, "Israel pounds Gaza, killing a pregnant woman and her child", 9 August. https://www.aljazeera.com/news/2018/08/israel-pounds-gaza-killing-pregnant-woman-child-180809031129429.html

figure that was reportedly later reduced to 100m."5 An IDF spokesman stated that Israel failed to minimize casualties, hitting untargeted Palestinians by gunfire.6

Retaliatory airstrikes by Israel targeted Hamas positions as well as Palestinian civilians in Gaza, including a cultural centre.7 On Friday August 10, new clashes were reported along the Gaza fence where two Palestinians, including a medic, died and 307 were injured, according to the Ministry of Health.8

3. Violations and Inconsistencies with International Law and Principles

The use or ordering of disproportionate lethal force by IDF soldiers against Palestinian demonstrators, if verified, would contravene Israel's ICCPR duties to respect their rights to life, peaceful assembly, association, and expression.9 Responding to the violence, the High Commissioner for human rights stated that "Palestinians' right to life, their right to security of the person and rights to freedom of assembly and expression must be respected & protected."10

Furthermore, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials hold that preference should be given to "non-violent means" when policing protests, and when lawful use of firearms is unavoidable, officials should "act in proportion to the seriousness of the offence" and "minimize damage and injury."11

IDF soldiers using firearms and lethal force in response to demonstrators approaching the border fence and using reportedly limited, non-lethal force (cutting the border fence, using sling-shots to throw stones, and sending out burning tires and burning kites) is disproportionate and in contravention of these principles. In a statement on May 18, the High Commissioner for human rights stated that "[k]illings resulting from the unlawful use of force by an occupying power may also constitute 'wilful killings'" inconsistent with article 147 of the fourth Geneva Convention.12

4. Calls for Accountability

The Special Rapporteur on the situation of human rights in the Occupied Palestinian Territory, Michael Lynk, condemned Israel's excessive use of force towards largely unarmed demonstrators and called for "true accountability" to those who ordered or allowed the excessive use of force.13 To that end, the Human Rights Council voted on 18 May 2018 to dispatch an "independent, international commission of inquiry" to investigate what it called "military assaults" on Palestinian protesters.14 The Prosecutor of the ICC further stated on 8 April 2018 that "[v]iolence against civilians—in a situation such as the one prevailing in Gaza—could constitute crimes under the Rome Statute of the ICC, as could the use of civilian presence for the purpose of shielding military activities."15

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5 BBC, "Did Israel use excessive force at Gaza protests?", 17 May 2018, http://www.bbc.com/news/world-middle-east-44124556.
6 Uri Blau, "Top IDF Spokesperson Tells U.S. Jews: Israel Failed to Minimize Gaza Casualties, Hamas Won PR War by Knockout", 17 May 2018, https://www.haaretz.com/middle-east-news/palestinians/.premium-hamas-won-pr-war-we-failed-on-gaza-causalities-admits-israeli-spokesperson-1.6094562.
7 CNN, "Ceasefire reported after more than 24 hours of hostilities between Israel and Hamas", 9 August 2018. https://edition.cnn.com/2018/08/09/middleeast/israel-gaza-intl/index.html
8 Haaretz, "Two Palestinians Killed, 307 Wounded' in Border Protests After Gaza Escalation", August 10 2018. https://www.haaretz.com/israel-news/hamas-calls-on-gazans-to-join-border-protests-after-gaza-escalation-1.6364600
9 UN General Assembly, International Covenant on Civil and Political Rights, Art. 6, 21 and 22, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171. http://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf
10 @UNHumanRights, 18 May 2018, https://twitter.com/UNHumanRights/status/997394882137346048.
11 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 7 September 1990, Art. 4 and 5. http://www.ohchr.org/Documents/ProfessionalInterest/firearms.pdf.
12 OHCHR, "Special Session of the Human Rights Council on the deteriorating human rights situation in the Occupied Palestinian Territory, including East Jerusalem – Statement by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein", 18 May 2018, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23100&LangID=E;
International Committee of the Red Cross (ICRC), Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 August 1949, 75 UNTS 287, Art. 147, https://ihl-databases.icrc.org/ihl/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5.
13 OHCHR, "UN human rights expert condemns horrific violence in Gaza", 15 May 2018, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23087&LangID=E
14 HRC Resolution S-28/1, "Violations of international law in the context of large-scale civilian protests in the Occupied Palestinian Territory, including East Jerusalem", A/HRC/RES/S-28/1, 18 May 2018, http://www.ohchr.org/Documents/HRBodies/HRCouncil/SpecialSession/Session28/A_HRC_RES_S-28_1.docx.

5. Recommendations

HRN expresses deep concern over the serious human rights violations against the Palestinian people and the excessively lethal response by Israeli authorities to the demonstrations along the Gaza-Israeli border, as well as the hostilities from Gaza political authorities towards south Israel civilian communities.

HRN calls on the Israeli government to:

- Respect the fundamental human rights to life and peaceful protest of Palestinian demonstrators;
- Launch an independent and effective investigation into all incidents resulting in death or injuries of Palestinian protesters and, in cases of excessive use of force, bring those responsible to justice;
- Co-operate fully with the investigation commissioned by the Human Rights Council into alleged violations of international law since 30 March 2018;
- Effectively investigate and repeal any rules of engagement which permit the use of lethal force against persons not posing imminent danger;
- Cease all violations of international criminal law, international human rights, and humanitarian law against Palestinian people and take measures to prevent future violations.

HRN calls on the Palestinian authorities both in Gaza and the West Bank to:

- End hostilities towards Israel civilian communities, particularly the launching of rockets from Gaza towards towns in southern Israel;
- Facilitate the dialogue backed by Egypt and the UN towards a long-lasting ceasefire with Israel.

HRN further requests the international community to:

- Support efforts for justice and accountability for perpetrators of human rights abuses against Palestinians, especially by the IDF;
- Actively work towards a political solution for Palestine in accordance with international law.

HRN requests the ICC prosecutor to:

- Open a formal investigation into allegations of serious violations of international law in Palestine.